



## United States Department of the Interior

### FISH AND WILDLIFE SERVICE

1875 Century Boulevard  
Atlanta, Georgia 30345

In Reply Refer To:  
FWS/R4/DH NRDAR

AUG 13 2015

#### Memorandum

To: Field Supervisors, Ecological Services Offices in: Panama City, Florida; Daphne, Alabama; Jackson, Mississippi; Lafayette, Louisiana; and Corpus Christi, Texas

From: Deputy *Deepwater Horizon* Department of the Interior Natural Resource Damage Assessment and Restoration (NRDAR), Case Manager *Debra L. McCl.*

Subject: Proposed Sea Turtle Early Restoration Project

As you are no doubt aware, on or about April 20, 2010, the mobile offshore drilling unit *Deepwater Horizon* experienced an explosion, leading to a fire and its subsequent sinking in the Gulf of Mexico (the Gulf). These events resulted in the discharge of millions of barrels of oil into the Gulf over a period of 87 days. In addition, various response actions were undertaken in an attempt to minimize impacts from spilled oil. These events are hereafter collectively referred to as the Oil Spill.

The Department of the Interior (DOI), acting through the U.S. Fish and Wildlife Service (the Service) and other Bureaus, is a designated natural resource trustee agency authorized by the Oil Pollution Act of 1990 (OPA) and other applicable federal laws to assess and assert a natural resource damages claim for this Oil Spill. DOI is only one of several Trustees, including agencies in the State of Florida, so authorized. Consistent with their federal and state authorities, the Trustees are investigating the resource injuries and losses that occurred as a result of the Oil Spill and have initiated restoration planning to identify the actions that will be needed or appropriate to restore injured natural resources to make the public whole for injuries and losses that occurred. This process is known as a Natural Resource Damage Assessment (NRDA).

On April 20, 2011, DOI, National Oceanic and Atmospheric Administration (NOAA), and the Trustees for the five Gulf states affected by the Oil Spill entered into an agreement with BP, a responsible party for the Oil Spill, under which BP agreed to provide \$1 billion for early restoration projects in the Gulf to address injuries to natural resources caused by the Oil Spill. The subject project is being evaluated by the Trustees as a potential early restoration project. The early restoration project has been proposed in a draft early restoration plan that was released for public comment and review May 20, 2015. If the Trustees select the project after publication of the plan and consideration of public comment and a stipulated agreement is reached with BP, the early restoration project will be implemented by the National Park Service (NPS) and the U.S. Fish and Wildlife Service (USFWS) for DOI, NOAA, and the Texas Parks and Wildlife Department (TPWD).

As with other early restoration projects, we reviewed the proposed Sea Turtle Early Restoration Project for compliance with Section 7 of the Endangered Species Act of 1973 (ESA), as amended (16 U.S.C. 1531 *et seq.*). We determined the proposed project has been the subject of a number of consultations or permitting actions under the ESA. We have summarized these analyses in the attached ESA Biological Evaluation Forms for *Deepwater Horizon* Oil Spill Restoration (BE) and determined no additional consultation with U.S. Fish and Wildlife Service or National Marine Fisheries Service for the proposed project is necessary.

Within the BE forms, we have also reviewed the proposed project for impacts to bald eagles and migratory birds in accordance with the Bald and Golden Eagle Protection Act (BGEPA) of 1940 (16 U.S.C. 668-668c) and the Migratory Bird Treaty Act (MBTA) of 1918 (16 U.S.C. 703-712), respectively and we determined take would be avoided. These BE forms will also be submitted to NMFS in regards to Marine Mammal Protection Act (MMPA) of 1972, as amended (16 U.S.C. 1461 *et seq.*).

We are providing you with these Biological Evaluation Forms for your information and no concurrence is necessary. If you have questions or concerns regarding this documentation, please contact Ashley Mills, Fish and Wildlife Biologist, at 812-756-2712 or [ashley\\_mills@fws.gov](mailto:ashley_mills@fws.gov).

Attachments (5)

# Endangered Species Act Biological Evaluation Form

## Deepwater Horizon Oil Spill Restoration

### Fish and Wildlife Service & National Marine Fisheries Service

This form will be used to provide information for the initiation of informal Section 7 consultations under the Endangered Species Act, if required or to document a No Effect determination. In addition, information provided in this form may be used to inform other regulatory compliance processes such as Essential Fish Habitat (EFH), Marine Mammal Protection Act (MMPA), Section 106 of the National Historic Preservation Act (NHPA), Migratory Bird Treaty Act (MBTA), and Bald and Golden Eagle Protection Act (BGEPA). Further information may be required beyond what is captured in this form. Note: if you need additional space for writing, please attach pages as needed.

#### A. Project Identification

<i>Lead Agency</i>			
U.S. Fish and Wildlife Service/National Marine Fisheries Service		<i>Phone</i>	<i>Email</i>
<i>Agency Contact Person</i>		812-756-2712 and	Ashley_Buchanan@fws.gov and
Ashley Mills and Laurel Jennings		206-526-4601	Laurel.Jennings@noaa.gov
<i>I. Applicant Agency or Business Name</i>			
Department of the Interior			
<i>II. Applicant Contact Person</i>		<i>III. Phone</i>	<i>Email</i>
Chip Wood		(361) 994-8262	chip_wood@fws.gov
<i>IV. Project Name and ID# (Official name of project and ID number assigned by action agency)</i>			
Sea Turtle Early Restoration (Kemp's Ridley Sea Turtle Nest Detection and Enhancement)			
<i>V. Project Type</i>			
Other			
<i>VI. NMFS Office (Choose appropriate office based on project location)</i>			
NMFS Southeast Regional Office			
<i>VII. FWS Office (Choose appropriate office based on project location)</i>			
Texas Coastal Ecological Services Field Office			

#### B. Project Location

<i>I. Physical Address of Project Site (If applicable)</i>	
Padre Island National Seashore (physical construction - see project description). Nest detection efforts occur along most of the Texas coast on sandy beaches. Additionally, the U.S. program supports ongoing nest detection and protection efforts in Mexico through the Gladys Porter Zoo.	
<i>II. State &amp; County/Parish of Project Site</i>	
Texas, multiple counties	
<i>III. Latitude &amp; Longitude for Project Site (Decimal degrees and datum [e.g., 27.71622°N, 80.25174°W NAD83] [online conversion: <a href="http://transition.fcc.gov/mb/audio/bickel/DDDMSS-decimal.html">http://transition.fcc.gov/mb/audio/bickel/DDDMSS-decimal.html</a>])</i>	
Based on the UTM coordinate system using NAD83 ConUS. Converted at <a href="http://www.rcn.montana.edu/resources/converter.aspx">http://www.rcn.montana.edu/resources/converter.aspx</a> A. 27.010228N -97.37944302136397 W; and B. 26.706451 N -97.32540228305304 W	
<i>IV. Township, range and section of the project area</i>	
N/A	

**C. Description of Action Area**

1. Attach a separate map delineating where the action will occur. 2. Describe ALL areas that may be affected directly or indirectly by the Federal action and not merely the immediate project site involved in the action, or just where species or critical habitat may be present. Provide a description of the existing environmental conditions and characteristics (e.g., topography, vegetation type, soil type, substrate type, water quality, water depth, tidal/riverine/estuarine, hydrology and drainage patterns, current flow and direction), and land uses (e.g., public, residential, commercial, industrial, agricultural). 3. If habitat for species is present in the action area, provide a general description of the current state of the habitat. 4. Identify any management or other activities already occurring in the area. 5. Detailed map of the area of potential effect for ground disturbing activities if it is different from the project area

The Kemp's Ridley Sea Turtle Nest Detection and Enhancement Program includes an extensive effort to detect, document, and excavate nests, transport, protect eggs via corrals, and release hatchlings of Kemp's ridley sea turtles following standard procedures and protocols. These actions occur along all Kemp's ridley nesting beaches in Texas and Mexico. All work occurs on sandy beach habitat between the shoreline and any dunes. Existing vehicle access points are used and will continue to be used for the program.

Cabin and Corral construction will occur near specific locations (30-mile marker and 50-mile marker, see above Section BIII, A. and B. respectively) on Padre Island National Seashore. For additional detail, see Expansion of Facilities Supporting Sea Turtle Science and Recovery Construction of Patrol Cabins and Expansion of Incubation Laboratory Environmental Assessment February 2011 Final (available upon request).

Sandy beach habitat throughout the action area is suitable for sea turtle nesting and routine foraging and sheltering behaviors of piping plover and red knot.

a. *Waterbody*  
*(If applicable. Name the body of water, including wetlands (freshwater or estuarine), on which the project is located. If the location is in a river or estuary, please approximate the navigable distance from the project location to the marine environment.)*

Gulf of Mexico and several bays are adjacent to the project area. The nest detection program is conducted from the water's edge to the base of the dune line on sandy beaches. Cabin and corrals will be built above the mean high water line in terrestrial habitats.

b. *Existing Structures*  
*(If applicable. Describe the current and historical structures found in the project area (e.g., buildings, parking lots, docks, seawalls, groynes, jetties, marina.)). If known, please provide the years of construction.*

Multiple existing structures are present along the shorelines of Texas and Mexico. None will be altered by the proposed project.

c. *Seagrasses & Other Marine Vegetation*  
*(If applicable. Describe seagrasses found in project area. If a benthic survey was done, provide the date it was completed and a copy of the report. Estimate the species area of coverage and density. Attach a separate map showing the location of the seagrasses in the project area.)*

N/A. no in-water work.

d. *Mangroves*  
*(If applicable. Describe the mangroves found in project area. Indicate the species found (red, black, white), the species area of coverage in square footage and linear footage along project shoreline. Attach a separate map showing the location of the mangroves in the project area.)*

N/A. no in-water work.

e. *Corals*  
*(If applicable. Describe the corals found in project area. If a benthic survey was done, provide the date it was completed and a copy of the report. Estimate the species area of coverage and density. Attach a separate map showing the location of the corals in the project area.)*

N/A. no in-water work.

f. *Uplands*  
*(If applicable. Describe the current terrestrial habitat in which the project is located (e.g. pasture, forest, meadows, beach and dune habitats, etc.).*

Sandy beach habitat.

## D. Project Description

I. *Construction Schedule (What is the anticipated schedule for major phases of work? Include duration of in-water work.)*

To be determined.

II. *Describe the Proposed Action: 1. What is the purpose and need of the proposed action? 2. How do you plan to accomplish it? Describe in detail the construction equipment and methods\*\* needed; permanent vs. temporary impacts; duration of temporary impacts; dust, erosion, and sedimentation controls; restoration areas; if the project is growth-inducing or facilitates growth; whether the project is part of a larger project or plan; and what permits will need to be obtained. 3. Attach a separate map showing project footprint, avoidance areas, construction accesses, staging/laydown areas. \*\*If construction involves overwater structures, pilings and sheetpiles, boat slips, boat ramps, shoreline armoring, dredging, blasting, or artificial reefs, list the method here, but complete the next section(s) in detail.*

The Kemp's Ridley Sea Turtle Nest Detection and Enhancement project would consist of the following: paying additional staff at Padre Island National Seashore (PAIS) to support nest detection and protection; purchasing equipment (including vehicles) and supplies to conduct nest detection searches; and constructing two cabins and two nesting corrals on PAIS to facilitate nest detection. These actions are covered under the ESA via existing permits and consultations (see Section "F" below). We have included a brief summary below to facilitate understanding of the permits and consultations already in place and no additional consultation for this proposed project is necessary.

### Existing Kemp's Ridley Sea Turtle Nest Detection Program

The Kemp's Ridley Sea Turtle Nest Detection and Enhancement program proposed here would support the existing Kemp's Ridley Sea Turtle Nest Detection Program (Existing Program) in Texas and Mexico. The Existing Program includes an extensive effort to detect, document, and protect nesting Kemp's ridley sea turtles in Texas and Mexico following standard procedures and protocols. Detection occurs generally during daily, daytime vehicle patrols along the entire Texas coastline in suitable nesting habitats between April and mid-July. When a nest is found, it is documented and excavated. Eggs are transported to the nearest incubation and corralling facilities at PAIS for protected care. Upon hatching, sea turtles are then released to the Gulf of Mexico. Other sea turtle species may occasionally nest along the Texas coast. If encountered during the nest patrols, the nests of other sea turtle species may also be relocated to the incubation/corral facilities at PAIS. In Mexico, the Gladys Porter Zoo (as the permit holder), would be provided funding over a 10-year period to support annual nest detection patrols; excavation, corralling, and release of hatchlings; and local, education activities as part of their long-term efforts at the Rancho Nuevo and other nesting sites. The proposed activities are covered by existing permits (see Section "F" below).

### PAIS Cabins and Corrals

Two cabins were historically located on PAIS to support the Existing Program. These cabins were destroyed by Hurricane Bret in 1999. Since that time, PAIS staff have patrolled the nearly 80 miles of sand beach with no infrastructure support for the southernmost 60 miles. Rapidly changing weather and tidal conditions pose significant safety threats to staff and equipment. Therefore, the proposed project would include funding for the construction of two base camp cabins in their original locations in the remote southern end of PAIS. In addition, a nesting corral would be constructed near each cabin in order to reduce risks associated with transporting eggs long distances over rough terrain. Cabin and corral construction is described in the following documents (available upon request): (1) Biological Assessment for Padre Island National Seashore's Proposed Project, Expansion of Facilities Supporting Sea Turtle Science and Recovery and (2) Expansion of Facilities Supporting Sea Turtle Science and Recovery Construction of Patrol Cabins and Expansion of Incubation Laboratory Environmental Assessment February 2011 Final (2011 EA). The proposed activities are covered by an existing biological opinion (see Section "F" below).

iii. *Specific In-Water Construction Methods (Provide a detailed account of construction methods. It is important to include step-by-step descriptions of how demolition or removal of structures is conducted and if any debris will be moved and how. Describe how construction will be implemented, what type and size of materials will be used and if machines will be used, manual labor, or both. Indicated if work will be done from upland, barge, or both.)*

a. *Overwater Structures (Place your answers to the following questions in the box below.)*

- i. *Is the proposed use of this structure for a docking facility or an observation platform?*
- ii. *If no, is this a fishing pier? Public or Private? How many people are expected to fish per day? How do you plan to address hook and line captures?*
- iii. *Use of "Dock Construction Guidelines"? <http://sero.nmfs.noaa.gov/pr/endangered%20species/Section%207/DockGuidelines.pdf>*
- iv. *Type of decking: Grated – 43% open space; Wooden planks or composite planks – proposed spacing?*
- v. *Height above Mean High Water (MHW) elevation?*
- vi. *Directional orientation of main axis of dock?*
- vii. *Overwater area (sqft)?*
- viii. *Use of "Sea Turtle and Smalltooth Sawfish Construction Conditions, March 2006"? <http://sero.nmfs.noaa.gov/pr/endangered%20species/Sea%20Turtle%20and%20Smalltooth%20Sawfish%20Construction%20Conditions%203-23-06.pdf>*

N/A

b. *Pilings & Sheetpiles (What type of material is the piling or sheetpiles? What size and how many will be used? Method used to install: impact hammer, vibratory hammer, jetting, etc.?)*

General construction of the cabins and corrals may require footings; however, pilings are not expected as all construction work will be in the terrestrial environment.

c. *Boat Slips (Describe the number and size of slips and if the number of new slips changes from what is currently available at the project. Indicate how many are wet slips and how many are dry slips. Estimate the shadow effect of the boats - the area (sqft) beneath the boats that will be shaded.)*

N/A

d. *Boat Ramp (Describe the number and size of boat ramps, the number of vessels that can be moored at the site (e.g., staging area) and if this is a public or private ramp. Indicate the boat trailer parking lot capacity, and if this number changes from what is currently available at the project.)*

N/A

- e. *Shoreline Armoring (This includes all manner of shoreline armoring (e.g., riprap, seawalls, jetties, groins, breakwaters, etc.). Provide specific information on material and construction methodology used to install the shoreline armoring materials. Include linear footage and square footage. Attach a separate map showing the location of the shoreline armoring in the project area.)*

N/A

- f. *Dredging or digging (Provide details about dredge type (hopper, cutterhead, clamshell, etc.), maximum depth of dredging, area (ft<sup>2</sup>) to be dredged, volume of material (yd<sup>3</sup>) to be produced, grain size of material, sediment testing for contamination, spoil disposition plans, and hydrodynamic description (average current speed/direction)).*

Digging in the terrestrial environment may be necessary to construct the cabins and corrals.

Sea turtle nests are excavated in order to move eggs to the corrals for protection and will be done in accordance with existing protocols and permit requirements.

- g. *Blasting (Projects that use blasting might not qualify as "minor projects," and a Biological Assessment (BA) may need to be prepared for the project. Arrange a technical consultation meeting with NMFS Protected Resources Division to determine if a BA is necessary. Please include explosive weights and blasting plan.)*

N/A

- h. *Artificial Reefs (Provide a detailed account of the artificial reef site selection and reef establishment decisions (i.e., management and siting considerations, stakeholder considerations, environmental considerations), deployment schedule, materials used, deployment methods, as well as final depth profile and overhead clearance for vessel traffic. For additional information and detailed guidance on artificial reefs, please refer to the artificial reef program websites for the particular state the project will occur in.)*

N/A

**E. Species & Critical Habitat**

1. List all species, critical habitat, proposed species and proposed critical habitat that may be found in the action area.
2. Attach a separate map identifying species/critical habitat locations within the action area.

For information on species and critical habitat under FWS jurisdiction, visit <http://www.fws.gov/Endangered/species/>.

Under NMFS jurisdiction, visit: [http://sero.nmfs.noaa.gov/protected\\_resources/section\\_7/threatened\\_endangered/Documents/aulf\\_of\\_mexico.pdf](http://sero.nmfs.noaa.gov/protected_resources/section_7/threatened_endangered/Documents/aulf_of_mexico.pdf).

SPECIES and/or CRITICAL HABITAT (CH)	STATUS	CH UNIT
Loggerhead sea turtle ( <i>Caretta caretta</i> ) - terrestrial	Threatened	
Green sea turtle ( <i>Chelonia mydas</i> ) - terrestrial	Threatened	
Hawksbill sea turtle ( <i>Eretmochelys imbricata</i> ) - terrestrial	Endangered	
Leatherback sea turtle ( <i>Dermochelys coriacea</i> ) - terrestrial	Endangered	
Kemp's ridley sea turtle ( <i>Lepidochelys kempi</i> ) - terrestrial	Endangered	
Piping plover ( <i>Charadrius melodus</i> )	Threatened	Tx 1-28
Red knot ( <i>Calidris canutus rufa</i> )	Threatened	
Northern aplomado falcon	Endangered	
Critical habitat for Whooping Crane	Critical Habitat	Aransas NWR & vicinity
	Select One	

## F. Effects of the Proposed Project

- i. *Explain the potential beneficial and adverse effects to each species listed above (Describe what, when, and how the species will be impacted and the likely response to the impact. Be sure to include direct, indirect, interdependent, interrelated, connected actions, and cumulative impacts. Where possible, quantify effects. If species are present (or potentially present) and will not be adversely affected describe your rationale. If species are unlikely to be present in the general area or action area, explain why. This justification provides documentation for your administrative record, avoids the need for additional correspondence regarding the species, and helps expedite review.)*

Effects of the proposed project have been fully analyzed in a series of permits or consultations. Below is a summary of these analyses.

### Existing Kemp's Ridley Sea Turtle Nest Detection Program

The capture, digging of nests, handling, transportation, and care of Kemp's and other sea turtle eggs and hatchlings is considered purposeful "take" under the ESA. As such, the Existing Program in Texas and Mexico has been reviewed and has been authorized under Section 10(a)(1)(A) of the ESA via Permits for Scientific Purposes, Enhancement of Propagation or Survival to conduct all these activities. The proposed project will enhance the Existing Program by providing increased personnel for conducting training and educational activities, providing new equipment (including vehicles) and supplies to replace old or inadequate equipment and supplies. The additional PAIS personnel, equipment and supplies, and funding to Gladys Porter Zoo are expected to help increase the number of nests detected, eggs successfully transported and hatched. Though an increase in capture and handling of eggs (i.e. an increase in "take") is anticipated due to the proposed project, we do not anticipate that the authorized take of the Existing Program will be exceeded. However, if necessary, Section 10(a)(1)(A) permits may be amended through standard USFWS procedures to increase authorized "take" to allow for handling and capture of increased nests and eggs.

### PAIS Cabins and Corrals

The cabin and corral construction was the subject of a January 19, 2011, Biological Opinion completed by the Texas Coastal Ecological Services Field Office, Corpus Christi (Service) (available upon request). In this consultation, the Service authorized take of Kemp's ridley (3 adults and 3 nests with eggs or hatchlings), loggerhead (1 adult and 1 nest with eggs or hatchlings), and green sea turtles (1 adult and 1 nest with eggs or hatchlings). On March 30, 2015 the Service issued an amendment to the January 19, 2011 Biological Opinion (available upon request). This amendment: extended the construction timeline for the proposed project; reaffirmed the take authorized for Kemp's, loggerhead, and green sea turtles; reaffirmed the Service's concurrence that hawksbill, leatherback, northern aplomado falcon, and piping plovers are not likely to be adversely affected by the proposed project; reaffirmed that no critical habitat will be adversely modified or destroyed by the proposed project; and provided concurrence that the proposed project is not likely to adversely affect the red knot. Conservation measures for the sea turtles and piping plover are outlined in the Biological Opinion. The amendment indicates the conservation measures for piping plover will avoid or minimize effects to the red knot. Because the PAIS Cabin and Corrals have a valid and current incidental take statement, additional consultation will only occur if re-initiation triggers (outlined in the Biological Opinion) are met.

- ii. *Explain the potential beneficial and adverse effects to critical habitat listed above (Describe what, when, and how the critical habitat will be impacted and the likely response to the impact. Be sure to include direct, indirect, interdependent, interrelated, connected actions, and cumulative impacts. Where possible, quantify effects (e.g. acres of habitat, miles of habitat). Describe your rationale if designated or proposed critical habitats are present and will not be adversely affected.*

No effects to critical habitat are anticipated from Existing Kemp's Ridley Sea Turtle Nest Detection Program or Cabin and Corral Construction.

**G. Actions to Reduce Adverse Effects**

I. *Explain the actions to reduce adverse effects to each species listed above (For each species for which impacts were identified, describe any conservation measures (e.g. BMPs) that will be implemented to avoid or minimize the impacts. Conservation measures are designed to avoid or minimize effects to listed species and critical habitats or further the recovery of the species under review. Conservation measures are considered part of the proposed action and their implementation is required. Any changes to, modifications of, or failure to implement these conservation measures may result in a need to reinstate this consultation.)*

Actions to reduce Adverse Effects are outlined in the permits and biological opinions for the Existing Kemp's Ridley Sea Turtle Nest Detection Program and the PAIS Cabins and Corrals, respectively.

II. *Explain the actions to reduce adverse effects to critical habitat listed above (For critical habitat for which impacts were identified, describe any conservation measures (e.g. BMPs) that will be implemented to avoid or minimize the impacts. Conservation measures are designed to avoid or minimize effects to listed species and critical habitats or further the recovery of the species under review. Conservation measures are considered part of the proposed action and their implementation is required. Any changes to, modifications of, or failure to implement these conservation measures may result in a need to reinstate this consultation.)*

Cabins and corrals construction and staging will not occur within critical habitat for any species.

Sea turtle nest detection could occur in critical habitat for piping plover or whooping crane. As a permit condition, "All sea turtle nest detection and relocation methodologies and activities must be coordinated with and are approved by the USFWS..." If necessary, the USFWS would provide avoidance and minimization measures for critical habitat during the required coordination.

**H. Effect Determination Requested**

*From the sections above, there should be enough detailed information to provide clear and obvious support for your determinations in the section below. If the rationale for the determination is not clear, additional information must be added to one of the sections. Identify if gulf sturgeon are in saltwater, estuarine, or in freshwater in your Species and/or Critical Habitat list to determine which federal agency will perform the analysis (e.g. gulf sturgeon CH - saltwater). Identify if sea turtles are in water or on land in your Species and/or Critical Habitat list to determine which federal agency will perform the analysis (e.g. Loggerhead sea turtle CH - terrestrial).*

SPECIES and/or CRITICAL HABITAT	DETERMINATION (see definitions below)
No effect determinations are requested via this BE form as all effects have	Select Most Appropriate
been addressed via current and valid permits and consultations.	Select Most Appropriate
	Select Most Appropriate

NE = no effect. This determination is appropriate when the proposed action will not directly, indirectly, or cumulatively impact, either positively or negatively, any listed, proposed, candidate species or designated/proposed critical habitat.

NLAA = not likely to adversely affect. This determination is appropriate when the proposed action is not likely to adversely impact any listed, proposed, candidate species or designated/proposed critical habitat or there may be beneficial effects to these resources. Response requested is "Concurrence." This conclusion is appropriate when effects to the species or critical habitat will be beneficial, discountable, or insignificant. Beneficial effects are contemporaneous positive effects without any adverse effects to the species or habitat. Insignificant effects relate to the size of the impact, while discountable effects are those that are extremely unlikely to occur. Based on best judgment, a person would not: (1) be able to meaningfully measure, detect, or evaluate insignificant effects; or (2) expect discountable effects to occur. If the Services concur in writing with the Action Agency's determination of "is not likely to adversely affect" listed species or critical habitat, the section 7 consultation process is completed.

LAA = likely to adversely affect. This determination is appropriate when the proposed action is likely to adversely impact any listed, proposed, candidate species or designated/proposed critical habitat. Response requested for listed species is "Formal Consultation". Response requested for proposed and candidate species is "Conference." This conclusion is reached if any adverse effect to listed species or critical habitat may occur as a direct or indirect result of the proposed action or its interrelated or interdependent actions, and the effect is not discountable or insignificant. In the event the overall effect of the proposed action is beneficial to the listed species or critical habitat, but may also cause some adverse effect on individuals of the listed species or segments of the critical habitat, then the determination should be "is likely to adversely affect." Such a determination requires formal section 7 consultation and will require additional information.

JP = likely to jeopardize proposed species/adversely modify proposed critical habitat. For proposed species and proposed critical habitats, the Service is required to evaluate whether the proposed action is likely to jeopardize the continued existence of the proposed species or adversely modify an area proposed for designation as critical habitat. If you reach this conclusion, a section 7 conference is required.

JC = likely to jeopardize candidate species. For candidate species, the Service is required to evaluate whether the proposed action is likely to jeopardize the continued existence of the candidate species. If this conclusion is reached, intra-Service section 7 conference is required.

**I. Bald Eagles**

Are bald eagles present in the action area?  NO  YES

If YES, the following conservation measures should be implemented:

1. If bald eagle breeding or nesting behaviors are observed or a nest is discovered or known, all activities (e.g., walking, camping, clean-up, use of a UTV, ATV, or boat) should avoid the nest by a minimum of 660 feet. If the nest is protected by a vegetated buffer where there is *no* line of sight to the nest, then the minimum avoidance distance is 330 feet. This avoidance distance shall be maintained from the onset of breeding/courtship behaviors until any eggs have hatched and eaglets have fledged (approximately 6 months).
2. If a similar activity (e.g., driving on a roadway) is closer than 660 feet to a nest, then you may maintain a distance buffer as close to the nest as the existing tolerated activity.
3. If a vegetated buffer is present and there is no line of sight to the nest and a similar activity is closer than 330 feet to a nest, then you may maintain a distance buffer as close to the nest as the existing tolerated activity.
4. In some instances activities conducted within 660 feet of a nest may result in disturbance, particularly for the eagles occupying the Mississippi barrier islands. If an activity appears to cause initial disturbance, the activity shall stop and all individuals and equipment will be moved away until the eagles are no longer displaying disturbance behaviors.

If these measures cannot be implemented, then you must contact the Service’s Migratory Bird Permit Office.

Texas – (505) 248-7882 or by email: [permitsR2MB@fws.gov](mailto:permitsR2MB@fws.gov)

Louisiana, Mississippi, Alabama, Florida – (404) 679-7070 or by email: [permitsR4MB@fws.gov](mailto:permitsR4MB@fws.gov)

**J. Migratory Birds**

Identify the species anticipated in the project area and behaviors (breeding, roosting, foraging) anticipated during project implementation. You may list similar species on a single line and categorize by type (e.g., Wading birds - great blue heron, snowy egret, reddish egret). Use additional tables on the next page if needed.

i.

SPECIES/SPECIES GROUP	BEHAVIOR	SPECIES/HABITAT IMPACTS
> 300 species of birds use Padre Island National Seashore, coastal Texas and Mexico	nesting, foraging, sheltering/roosting	There are no known nesting sites or vital foraging and roosting grounds at the cabin or corral locations. Construction-related noise and vehicles accessing the sites could disturb migratory birds that are otherwise foraging and roosting nearby.  Participants in the nest detection program could disturb nesting, foraging, or sheltering/roosting birds along the shoreline.

If species or habitat impacts could occur, identify avoidance and minimization measures to prevent incidental take. Incidental take of Migratory Birds cannot be authorized.

SPECIES/SPECIES GROUP	CONSERVATION MEASURES TO MINIMIZE IMPACTS
>300 species of birds use Padre Island National Seashore, coastal Texas and Mexico	Cabin and corral sites will be located in disturbed areas of the park such that known nesting sites and vital foraging and roosting grounds are avoided. Nearby foraging and roosting birds would mediate their own exposure (i.e., move to suitable habitats within normal daily behavior patterns) to construction noise and use of the cabins and corrals for sea turtle recovery actions.  Participants in the nest detection program drive carefully to avoid birds, sea turtles, and other wildlife on the beaches and do not approach nesting birds. Foraging or roosting birds would mediate their own exposure (i.e., move to suitable habitats within normal daily behavior patterns) to human and vehicle presence.

**Migratory Birds**

Continuation page if needed.

II.

SPECIES/SPECIES GROUP	BEHAVIOR	SPECIES/HABITAT IMPACTS

If species or habitat impacts could occur, identify avoidance and minimization measures to prevent incidental take. Incidental take of Migratory Birds cannot be authorized.

SPECIES/SPECIES GROUP	CONSERVATION MEASURES TO MINIMIZE IMPACTS

III.

SPECIES/SPECIES GROUP	BEHAVIOR	SPECIES/HABITAT IMPACTS

If species or habitat impacts could occur, identify avoidance and minimization measures to prevent incidental take. Incidental take of Migratory Birds cannot be authorized.

SPECIES/SPECIES GROUP	CONSERVATION MEASURES TO MINIMIZE IMPACTS

**Pre-existing NEPA Documents**Yes  No 

Does this project have any pre-existing, site specific NEPA analysis? If YES, then provide final NEPA analysis, if not final then provide draft. If tiered from a programmatic EIS or EA, then provide the programmatic document or a link below.

Expansion of Facilities Supporting Sea Turtle Science and Recovery ... Environmental Assessment February 2011 (available upon request)

**NMFS ESA §7 Consultation**

We request that all ESA §7 consultation requests/packages be submitted electronically to: **Laurel.Jennings@noaa.gov**. Questions about consultation status may be directed to the same email address or by phone, 206-526-4601 or 206-794-4761 (cell).

**FWS ESA § 7 Consultation**

We request that all consultation requests/packages to FWS be submitted electronically to: **Ashley\_Buchanan@fws.gov**. You will be notified when we receive your Biological Evaluation. Upon receipt, we will conduct a preliminary review and provide any comments and feedback, including any requests for modifications or additional information. If modifications or additional information is necessary, we will work with you until the Biological Evaluation form is considered complete. Once complete, we will send your Biological Evaluation to the appropriate Field Office to conduct consultation. If you have questions about consultation status, please contact Ashley Mills by phone 812-756-2712 or email **Ashley\_Buchanan@fws.gov**.

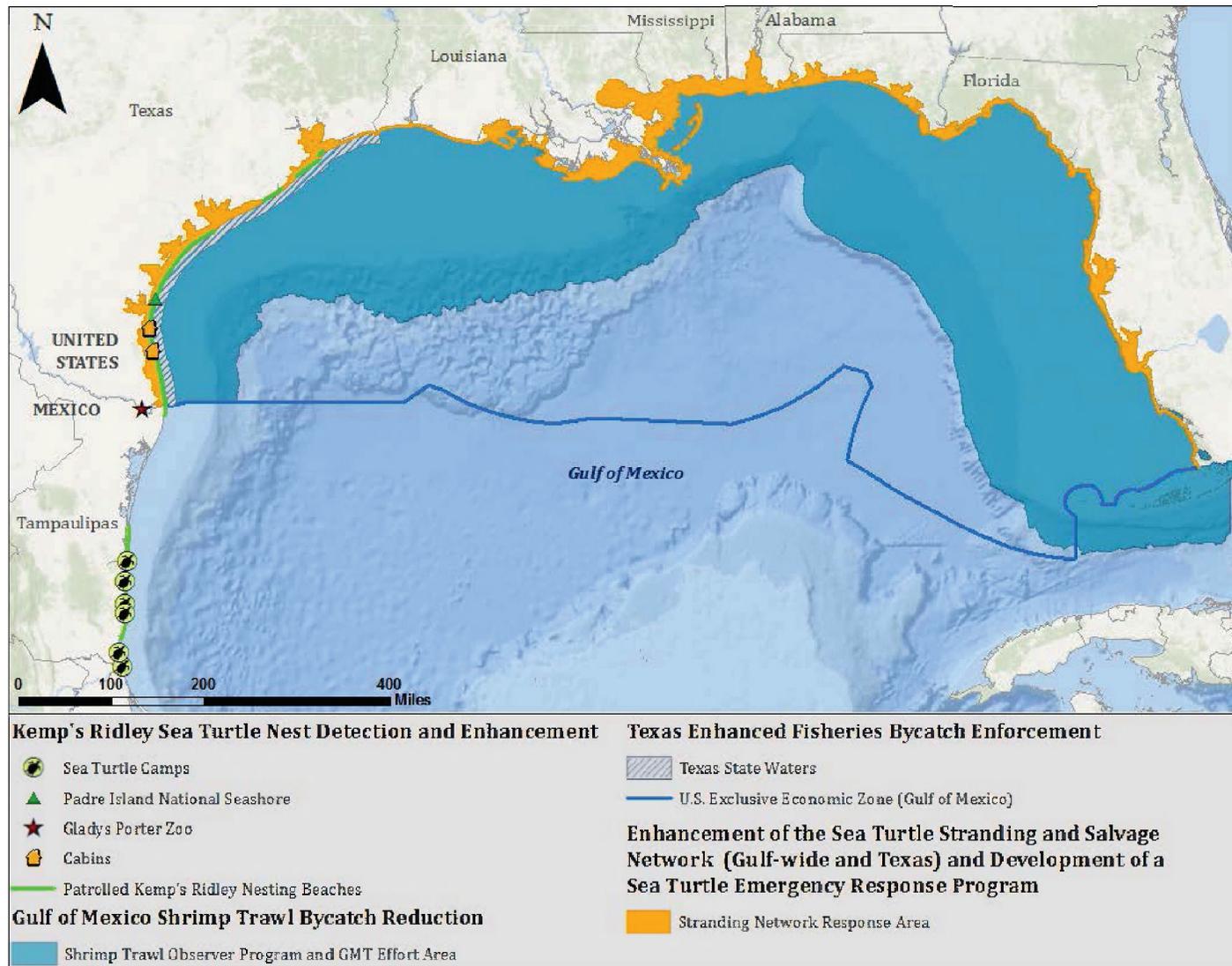
Name of Person Completing this Form:

Holly Herod

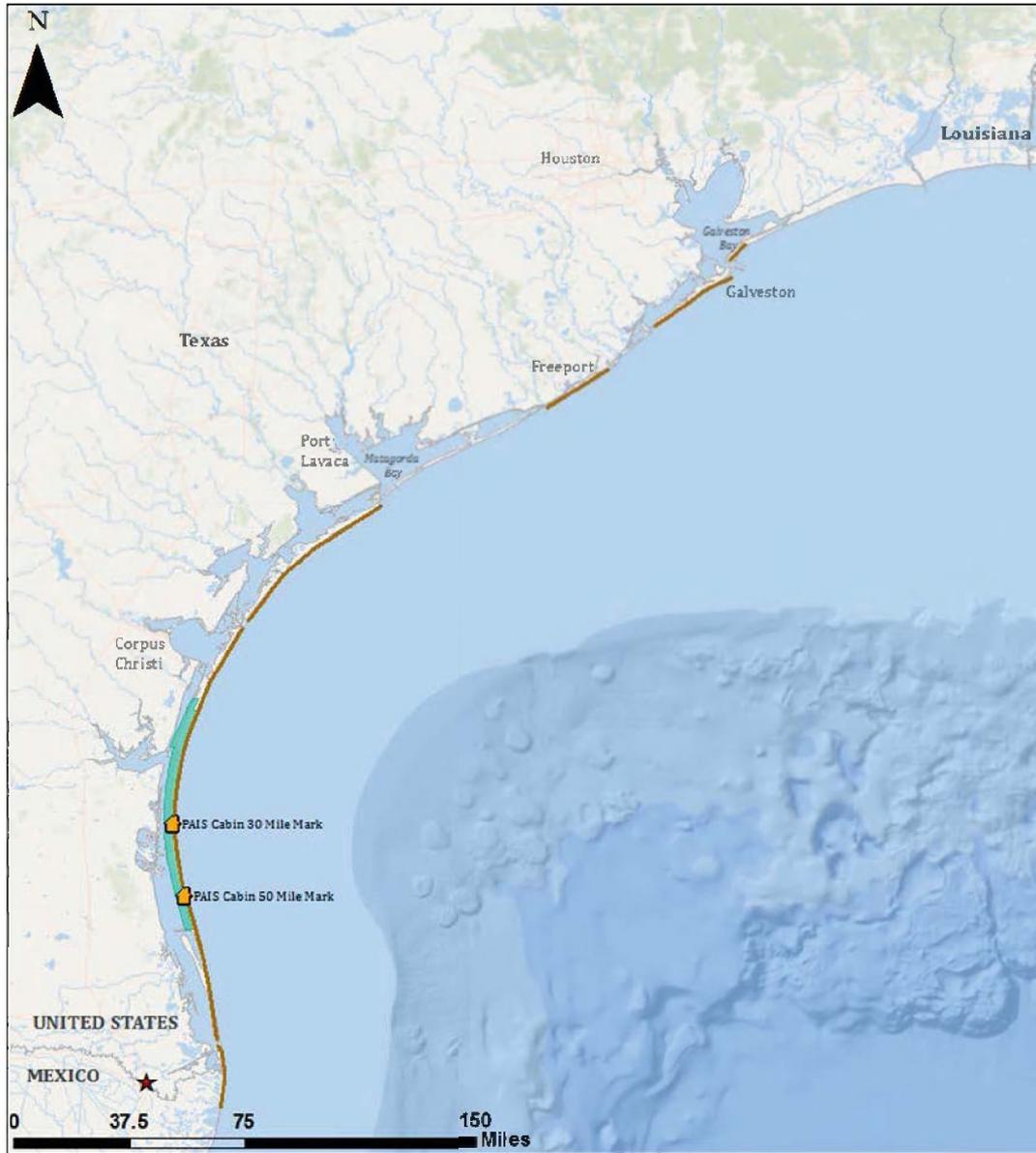
Name of Project Lead:

Date Form Completed:

04/07/2015



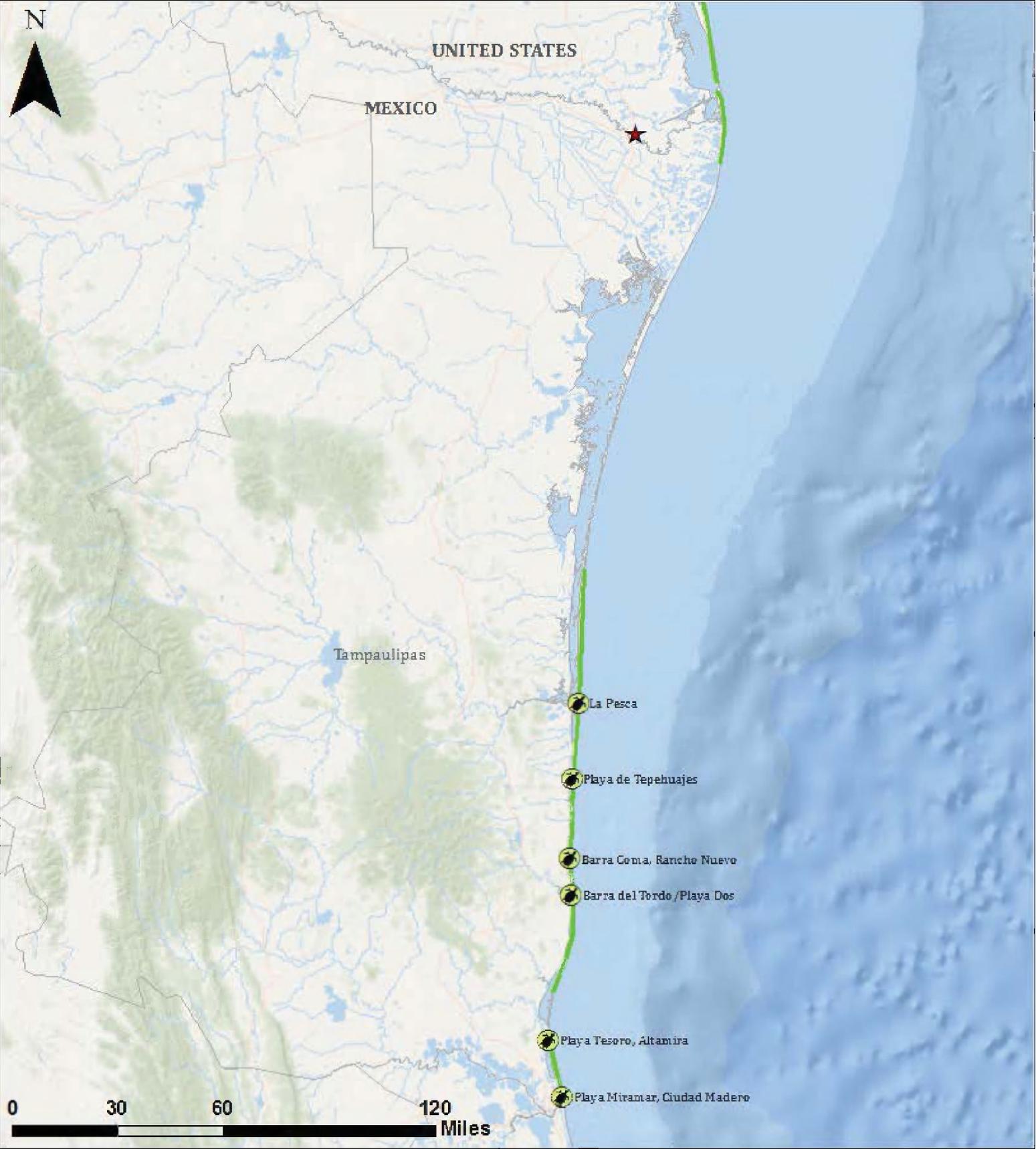
Geographic area of the proposed Phase IV Sea Turtle Early Restoration project



**Kemp's Ridley Sea Turtle Nest Detection and Enhancement (Texas)**

-  Cabins
-  Patrolled Kemp's Ridley Nesting Beaches
-  Gladys Porter Zoo
-  Padre Island National Seashore





**Kemp's Ridley Sea Turtle Nest Detection and Enhancement (Mexico)**

- ★ Gladys Porter Zoo
- 🐢 Sea Turtle Camp
- Patrolled Kemp's Ridley Nesting Beaches

